

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

32 ANTICIPATORY BAIL APPLICATION NO.23 OF 2021

**BAPPASAHEB S/O BHAGWAT ANDHALE
VERSUS
THE STATE OF MAHARASHTRA**

...
**Advocate for Applicants : Ladda Somnath G.
APP for Respondent State: V.S.Badakh**
...

**CORAM : MANGESH S. PATIL, J.
DATE : 08.02.2021**

PC. :-

The applicant is seeking bail in the event of his arrest in connection Crime No.81/2019 registered with Wadwani Police Station, Tq. Wadwani, Dist. Beed for the offences punishable under Section 363, 366-A and 109 of I.P.C. and Sections 4,6 and 17 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO Act" for short).

2] In substance the allegations are to the effect that the victim is a girl aged 15 years. The main accused Satyaprem made her to elope with him. The couple went from places to places and even had sex during this long period. The F.I.R. was lodged after the couple was traced.

3] The role attributed to the applicant in the F.I.R. is to the effect that the applicant is stated to have helped the main accused in getting a vehicle of his friend co-accused Krushna Gayake. It is thus alleged that the applicant abetted commission of the crime as defined under Section 16 punishable under

Section 17 of the POCSO Act

4] The learned advocate for the applicant would submit that accepting the allegations at their face value, conspicuously no specific intention on the part of the applicant is attributed to abet commission of the crime. He had not instigated them. There was no question of any conspiracy which is not even being alleged. It is only when the applicant is stated to have enabled to fetch a car of his friend who is also a co-accused that now he is being roped in. There is every possibility rather the father of the victim with an ulterior motive has been falsely implicating the applicant. Strictures were passed against him by the Division Bench of this Court when he filed a Writ Petition seeking *Habeas Corpus* which was dismissed by imposing costs.

5] The learned advocate would further submit that custodial interrogation of the applicant is not necessary going by the limited role attributed to him. He is ready to cooperate the Investigating Officer. There are no criminal antecedents. He is unlikely to jump the bail.

6] The learned A.P.P. opposes the application. He submits that the offence is serious. There is a specific role attributed to the applicant about he having helped the couple in fetching a car. It would constitute abetment within the meaning of Section 16 of the POCSO Act. His custodial interrogation is necessary. The application be rejected.

7] I have carefully gone through the papers. In the F.I.R. the victim alleges about the applicant having helped them in fetching a car of his friend co-accused Krushna Gayake. Even in her statement under Section 164 of Cr.P.C.

she has vaguely stated about the applicant and 2 other persons having helped them. Conspicuously there is no whisper about the applicant having intentionally helped the couple in hiring a car. The statement in the F.I.R. and in the statement recorded under Section 164 of the Cr.P.C. as far as role of the applicant is concerned are vague. Even the role attributed is limited without disclosing any aspect of intention.

8] Considering all the aforementioned facts and circumstances, when there are no other allegations attributable to the applicant, considering limited role stated to have been played by him, the application deserves to be allowed subject to suitable restrictions-conditions.

9] In the event of arrest of applicant in connection Crime No.81/2019 registered with Wadwani Police Station, Tq. Wadwani, Dist. Beed for the offences punishable under Section 363, 366-A and 109 of I.P.C. and Sections 4,6 and 17 of the Protection of Children from Sexual Offences Act, 2012 he shall be released on bail on his executing personal recognizance for an amount of Rs.20,000/- (Rs.Twenty thousand only) and furnishing a solvent surety in the like amount subject to following conditions :

- a] He shall attend the concerned Police Station as and when called by the Investigating Officer and shall cooperate him.
- b] He shall not tamper the evidence or influence the witnesses

[MANGESH S. PATIL, J.]